



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

August 29, 2012

VIA FIRST CLASS MAIL

Mr. C.C. "Bud" Grisham
1 Meriwether Pond
Harrison, AR 72602

RE: Corrected Deed Notice for the Arkwood Inc. Site

Mr. Grisham:

As you are aware, the deed notice filed on August 30, 2010 is not in compliance with the Record of Decision (ROD) for the Arkwood Inc. site, Boone County, Arkansas. For your review, I am enclosing a draft of the Corrected Deed Notice and related exhibits for the Arkwood site. This draft corrects the metes and bounds, restricts use of the Site to industrial use only, includes engineering controls and provides for other requirements that are protective of the Site remedies as well.

The enclosed draft corrected deed notice includes the comments of the U.S. Environmental Protection Agency (EPA) (Region 6 and Headquarters Legal and Program) and the Arkansas Department of Environmental Quality (ADEQ) (Legal and Program).

The EPA is also soliciting comments from your son, Mr. Curt Grisham, and McKesson Corporation.

Please review the enclosed corrected draft and provide your comments via your son or directly to me at the address below. Please provide any comments no later than Tuesday, September 17, 2013. Thank you for your attention to this matter.

Sincerely,

Gloria Moran
Assistant Regional Counsel (6RC-S)
Superfund Branch
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue
Dallas, Texas 75202

Enclosures

cc: Curt Grisham, via email



9463043

CORRECTED DEED NOTICE

This Corrected Deed Notice is made as of the ____ day of ____, 2013, by the Estate of Mary Faye (Burke) Grisham with C.C. Grisham as Executor. Mr. C.C. Grisham's principal place of business is located at 1 Meriwether Pond, Harrison, AR 72601 (together with his/her/its/their successors and assigns, collectively "Owner").

1. **THE PROPERTY.** The Estate of Mary Faye (Burke) Grisham with Mr. C.C. Grisham as Executor is the owner in fee simple of certain real property (the "Property") on the tax map of Boone County, Arkansas; the Property is also known as the United State Environmental Protection Agency (USEPA) Arkwood Superfund Site (Site) under the National Priorities List (NPL) listed on March 31, 1989 for the contaminated Site, which is located within the Property as described herein; and the Property is more particularly described in Exhibit A (Figure I-3 "Site Location Map") and Exhibit B (Figure I-7 "General Site Features" Map), which are attached hereto and made a part hereof .
2. **EFFECT OF CORRECTED DEED NOTICE.** This Corrected Deed Notice revises, amends and supersedes the Deed Notice executed and recorded (filed for record) by C.C. Grisham, Executor of the Estate of Mary Faye (Burke) Grisham, owner of the Property on August 30, 2010) in Boone County, Arkansas. (File No.10 00447).
3. **AFFECTED PROPERTY:** (Exhibit C) Part of the Northeast Quarter of the Southwest Quarter and part of the South Half of the Northwest Quarter and part of the Northwest Quarter of the Southeast Quarter of Section 27, Township 21 North, Range 21 West, Boone County, Arkansas, more particularly described to-wit: Commencing at a stone marking the Southeast corner of the Northeast Quarter of the Southwest Quarter of Said Section 27, thence North 86° 02' 53" West 946.17 feet, thence North 01° 28' 49" East 970.62 feet to the place of rejoining said point being located on northerly right-of-way of county road, thence with said northerly right-of-way North 31° 53' 10" West 492.77 feet, thence North 33° 15' 00" West 345.29 feet, thence North 29° 35' 17" West 345.49 feet, thence North 34° 06' 52" West 118.66 feet, thence North 39° 10' 31" West 92.00 feet, thence North 43° 16' 58" West 107.38 feet, thence leaving said northerly right-of-way North 42° 42' 38" East 2.83 feet to the southerly right-of-way of Missouri Pacific Railroad, thence with said southerly right-of-way South 47° 17' 22" East 49.77 feet, thence South 48° 16' 00" East 318.53, thence South 48° 19' 25" East 602.13 feet, thence South 49° 01' 52" East 95.36 feet, thence South 50° 04' 43" East 99.37 feet, thence South 51° 43' 07" East 98.58 feet, thence South 53° 45' 52" East 100.98 feet, thence South 55° 55' 22" East 103.00 feet, thence South 57° 46' 36" East 12.20 feet, thence South 32° 13' 24" West 135.00 feet, thence South 57° 46' 36" East 245.44 feet , thence North 32° 13' 24" East 106.15 feet to the North line of a deed dated February 22, 1961, and recorded in Deed Book 85, Pages 164-165 in the Circuit Clerk and ex-officio Recorder Office in and for Boone County, Arkansas, thence along said North line South 56° 29' 35" East 1004.34 feet, thence leaving said North line South 23° 30' 25" West 154.07 feet to the approximate toe of slope of hill side, thence with said approximate toe of slope South 48° 18' 45" West 47.44 feet ,thence South 80° 10' 42" West 100.89 feet, thence North 76° 14' 40" West 132.91 feet, thence North 68° 01' 53" West 282.88 feet, thence North 52° 56' 23" West 164.49 feet thence North 63° 51' 10" West 200.07 feet, thence South 29° 26' 53" West 116.89 feet, thence South 03° 41' 49" West 144.76 feet, to the northerly right-of-way of County Road, thence leaving said approximate toe of slope and following said northerly right-of-way of County Road North 46° 17' 18" West 70.92 feet, thence North 41° 56' 22" West 86.18 feet, thence North 36° 55' 21" West 86.29 feet, thence North 33° 04' 49" West

11. LAND USE RESTRICTIONS. All persons at or on the Property are subject to the following land use restrictions:
- i. No digging in the capped area below the depth which is determined to be protective as determined by USEPA, in consultation with ADEQ.
 - ii. No activities that will cause soil erosion and/or disrupt the integrity of the cap or landfill;
 - iii. No use, for any purpose, of the ground water.
 - iv. No activities that will affect the integrity of any current or future remedial or monitoring system such as ground water monitoring wells, impermeable reactive barriers.
 - v. No development of the Property for residential or commercial use.
12. MONITORING AND MAINTENANCE OF ENGINEERING CONTROLS, AND PROTECTIVENESS CERTIFICATION. Until such time as the remediation is completed, McKesson Corporation or their successors shall ensure compliance with the Land Use Restrictions, maintain all engineering controls at the Property and certify to the USEPA on an annual basis that the remedial action of which each engineering control is a part remains protective of the human health and safety and of the environment. When the remediation is completed by McKesson or their successors in accordance with the ROD and to the satisfaction of the USEPA, the Owner shall be responsible for ensuring compliance with the Land Use Restrictions, maintaining all engineering controls and submitting all required certifications. All subsequent owners have this obligation during their ownership. The specific obligations to monitor compliance of each Land Use Restriction and maintain the engineering controls shall include the following:
- i. Monitor compliance of each Land Use Restriction in Section 11 above and maintain each engineering control specified in Section 8 above to ensure that the remedy continues to be protective of the public health and safety and of the environment;
 - ii. Implement any actions that are necessary to correct, mitigate, or abate each problem related to the protectiveness of the remedial action for the Site;
 - iii. Certify in writing to the USEPA, with notice to ADEQ, as to the continued protectiveness on January 15 biannually for at least 30 years following the completion of remediation. Such certifications shall commence on January 15, 2014, subsequent to the recording of this document.
 - iv. Continue to monitor compliance with the Land Use Restrictions and ensure that the engineering controls are maintained after the Site is delisted, as the Land Use Restrictions and engineering controls survive delisting.
13. ACCESS. USEPA, ADEQ and their agents and representatives shall have full access to the Property at all times to inspect and evaluate the continued protectiveness of the remedial action or to perform other purposes defined under Arkansas law that include this Deed Notice.
14. NOTICES. The Owner and subsequent owners shall cause all leases, grants, and other written transfers of an interest in the Property to contain a provision expressly requiring all holders thereof to take the Property subject to the restrictions contained herein and to comply fully with the requirements in this Corrected Deed Notice. Nothing contained in this paragraph shall be construed as limiting any obligation of any person to provide any notifications required by any law, regulation, or order of any governmental authority.

10. SIGNATURES. IN WITNESS WHEREOF, Owner has executed this Corrected Deed Notice as of the date first written above.

Estate of Mary Faye (Burke) Grisham with C.C. Grisham as Executor

C.C. Grisham, Executor

Signature

STATE OF ARKANSAS

SS.:

COUNTY OF BOONE

I certify that on ____ day of _____, 2013, C.C. Grisham personally came before me, and this person acknowledged under oath, to my satisfaction, that:

(a) This person is the Executor of the Estate of Mary Faye (Burke) Grisham, the Owner named in this document; and

(b) This person signed this proof to attest to the truth of these facts.

Signature

C.C. Grisham, Executor for the Estate of Mary Faye (Burke) Grisham

Signed and sworn before me on ____ day of _____, 2013

_____, Notary Public

[Print name and title]

Deed

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
V.)	CIVIL ACTION NO.
)	87-3034
HALLIE C. ORMOND,)	
C.C. GRISHAM and)	
MARY F. BURKE,)	
)	
Defendants.)	

CONSENT DECREE

Plaintiff, United States of America, on behalf of the Administrator of the United States Environmental Protection Agency (EPA), has filed a Complaint herein on April 28, 1987, 1987, which was amended to include Mary F. Burke on June 3, 1987. The Complaint and Amended Complaint allege that the defendants Hallie C. Ormond, C.C. Grisham and Mary F. Burke (defendants), have failed to provide access to property owned by defendant Burke and formerly owned by defendant Ormond, to the authorized representative of EPA for the purposes of completing a work plan for a Remedial Investigation/Feasibility Study (RI/FS). The Complaints seek access to the Site pursuant to Sections 104(e) and 106 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §§ 9604(e) and 9606 (as amended) (CERCLA). The parties to this suit have consented to the entry of this Decree without trial of any issue, law or fact, and the parties hereby stipulate to this Court that in order to resolve the issues this Consent Decree should be entered.



creosote, and wood treating oils and/or the derivatives of PCP, creosote, and wood treating oils.

III. Binding Effect

This Decree shall apply to and be binding on the above named parties and upon their agents, trustees, servants, employees, successors, heirs and assigns. The undersigned representatives of the plaintiff and the defendants certify that they are fully authorized to enter into the terms and conditions of this Decree and to execute and legally bind the parties.

IV. Definitions

The terms as used in this Consent Decree, to the extent applicable, are defined in Section 101 of CERCLA, 42 U.S.C. § 9601.

V. Site Access

A. The defendants shall permit the EPA or any authorized representatives of the EPA, including any contractors, subcontractors and consultants, upon proper identification, to enter, inspect, and conduct activities at the Site for the purposes of completing the RI/FS work plan, conducting the RI/FS and thereafter for the purposes of implementing, operating, maintaining or overseeing any response action at the Site as may be required.

B. Nothing in this paragraph is intended to limit in any manner the right of entry or inspection that the United States and the State of Arkansas, their agencies or departments may otherwise have by operation of any law.

and assigns shall not use any portion of the Site in any manner that would adversely affect the implementation of the RI/FS or subsequent response action at the site by the EPA, its authorized representative, or its contractors and consultants.

F. Within ten days of the effective date of this Consent Decree, defendant Burke shall record in the appropriate Registry of Deeds a copy of this Consent Decree as notice to third parties of this agreement. A copy of said recording shall be sent to CERCLA Enforcement Branch Chief, Arkwood Site, Environmental Protection Agency, Region VI, 1445 Ross Ave., Dallas, Texas 75202.

VI. Relief from Liability

This Consent Decree shall not be construed in any manner to relieve the defendants of any liability under Section 106 and 107 of CERCLA, Section 7003 of RCRA or any other State or Federal statute or regulation for contamination of the Arkwood site. The United States specifically reserves the right to seek other remedies or sanctions available to it under CERCLA. The defendants shall not be responsible for completing the RI/FS for the Site so long as the RI/FS is fully completed by MMI pursuant to its Administrative Order on Consent, Docket No. VI-6-86.

VII. Retention of Jurisdiction

The Court shall retain jurisdiction over this Consent Decree to ensure compliance with the provisions set forth in Paragraph V., and to award penalties in the event of non-compliance with this Consent Decree, until such time as the EPA

Steven L. Leifer by DHK
STEVEN L. LEIFER
Acting Assistant Enforcement
Counsel
U. S. Environmental Protection
Agency
401 M Street, S.W.
Washington, D.C. 20460

J. MICHAEL FITZHUGH
United States Attorney
Western District of Arkansas

By: William M. Cromwell
WILLIAM CROMWELL
Assistant United States Attorney
6th and Rogers
U.S. Post Office and Courthouse
Building
Fort Smith, Arkansas 72901
ATTORNEYS FOR PLAINTIFF
UNITED STATES OF AMERICA

William F. Doshier
WILLIAM F. DOSHIER
Doshier & Bowers
P. O. Box 1797
Harrison, Arkansas 72601

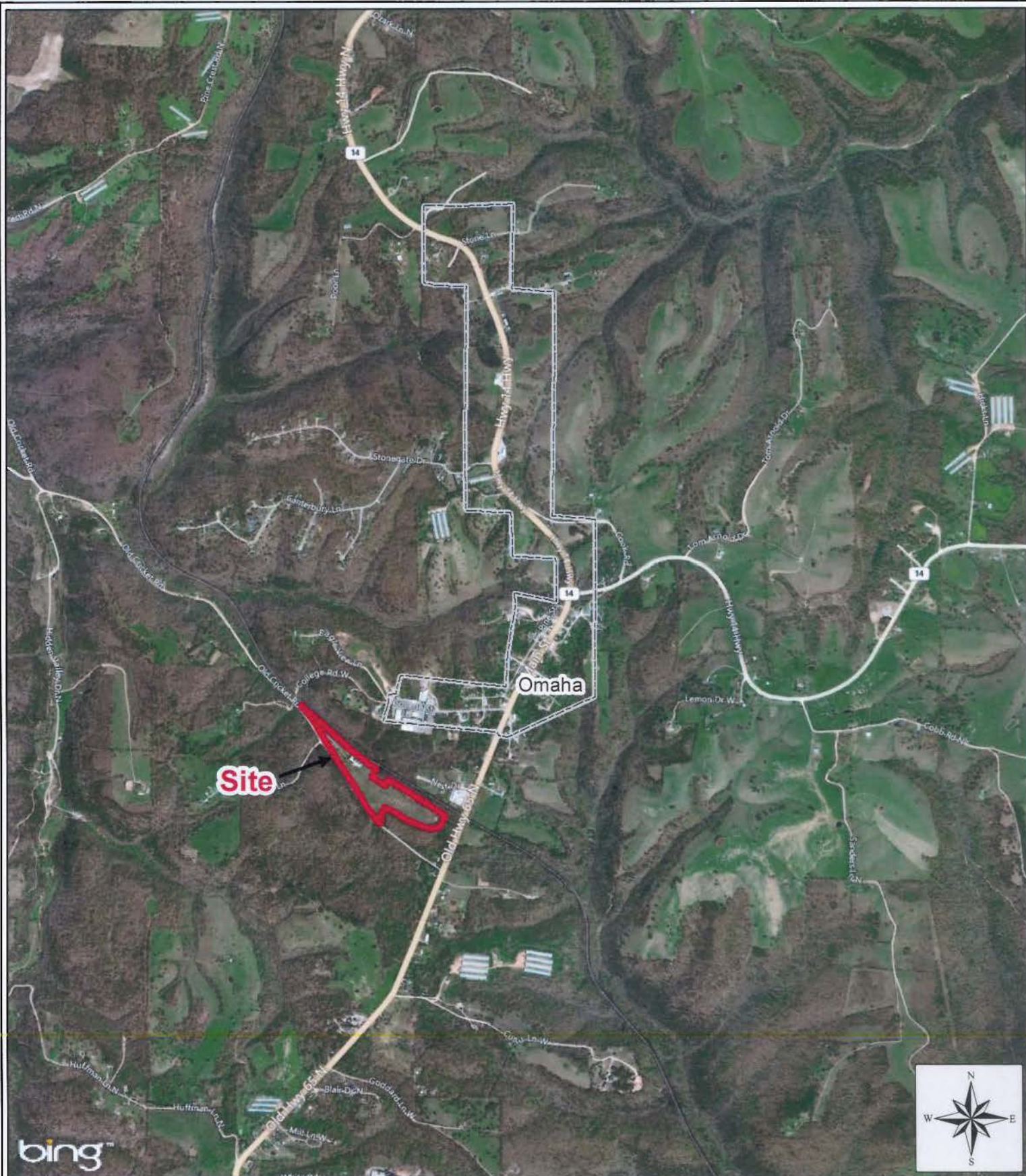


Figure I-3

Site Location Map Arkwood, Inc. Site Omaha, Arkansas

Data Sources: Site Boundary from
Corrected Deed Notice for C.C. Grisham,
Executor of the Estate of Mary Faye (Burke)
Grisham, owner of the Property on 08/30/2010
in Boone County, Texas (File No. 10 00447);
Basemap from Bing Hybrid.



Site Location

EPA Region 6
GIS Support
Dallas, TX
20130620BG02



LOCKNEED MARTIN

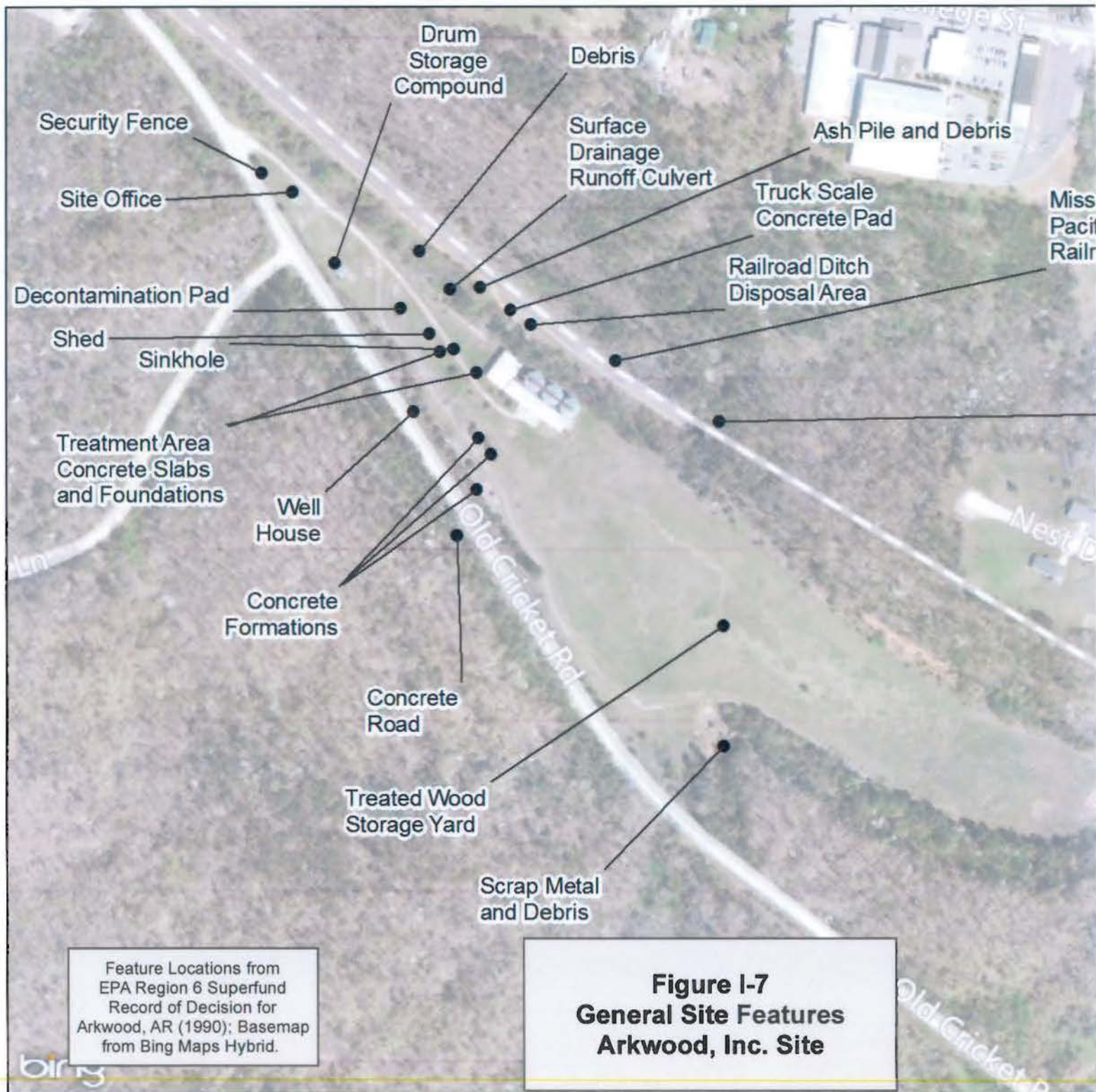


Figure 4. Capped and Excavated Areas of the Arkwood, Inc. Site



— Capped Area
— Excavated Areas